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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/409,461	08/31/99	LESLEY	G 6173.20/US

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QM22/0928

EXAMINER

PATEL, T

ART UNIT	PAPER NUMBER
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3741

DATE MAILED:

09/28/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action SummaryApplication No.
09/409,461Applicant(s)
LesleyExaminer
Tejash PatelGroup Art Unit
3741☒ Responsive to communication(s) filed on Jul 21, 2000☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims☒ Claim(s) 1 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.☒ Claim(s) 1 is/are rejected.☐ Claim(s) _____ is/are objected to.☐ Claims _____ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been☐ received.☐ received in Application No. (Series Code/Serial Number) _____.☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Brown (US 5,890,227). Brown discloses a safety garment (10) comprising rear and a pair of front panels being made of synthetic woven material, col. 2, lines 39-45, that is dimensioned to cover the torso of a wearer, by having top, bottom and side edges, and inside and outside surfaces respectively as shown in figures 1 and 2. Further, the top edges of the front panels are secured in spaced apart relationship to the top edge of the rear panel by forming a generally V-shaped opening, with adjacent inner side edges of the front panels being connected by adjustable means (29,30) as illustrated in figure 1. Furthermore, a pair of synthetic woven longitudinal straps (28) are secured to the garment by stitching means, col. 3, lines 34-39, that extends continuously across the outside surfaces of the front and rear panels between the top and bottom edges. In addition, at least one retro reflective strip is secured to the longitudinal straps, col. 3, lines 50-55.

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Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fleming (US 5,976,669) in view of Brown (US 5,890,227). Fleming discloses a safety garment (10) comprising rear and a pair of front panels that is dimensioned to cover the torso of a wearer, and it is inherent that the panels have top, bottom and side edges and inside and outside surfaces respectively as shown in figure 3. Further, the top edges of the front panels are secured in spaced apart relationship to the top edge of the rear panel by forming a generally V-shaped opening with adjacent inner side edges of the front panels, being connected by securing means as illustrated in figure 3. Furthermore, a pair of longitudinal straps (42) positioned on the front panels between the top and bottom edges are secured to the garment and at least one retro reflective strip is secured thereto, that is durable under industrial washing conditions, col. 3, lines 16-34. However, Fleming does not show the pair of straps extending continuously across the outside surfaces of the rear panel.

Brown discloses a safety garment (10) comprising rear and a pair of front panels being made of synthetic woven material, col. 2, lines 39-45, that is dimensioned to cover the torso of a wearer, by having top, bottom and side edges, and inside and outside surfaces respectively as

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shown in figures 1 and 2. Further, the top edges of the front panels are secured in spaced apart relationship to the top edge of the rear panel by forming a generally V-shaped opening, with adjacent inner side edges of the front panels being connected by adjustable means (29,30) as illustrated in figure 1. Furthermore, a pair of synthetic woven longitudinal straps (28) are secured to the garment by stitching means, col. 3, lines 34-39, that extends continuously across the outside surfaces of the front and rear panels between the top and bottom edges. In addition, at least one retro reflective strip is secured to the longitudinal straps, col. 3, lines 50-55.

It would have been obvious to one skilled in the art at the time the invention was made to provide the rear panel of Fleming with a longitudinal strap that is continuous with the straps on the front panels as taught by Brown, so that the user is noticeable in low visibility or when the device is worn at night.

Conclusion

5. The request filed on for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No 09/409,461 is acceptable and a CPA has been established. However, a preliminary amendment as stated on the PTO/SB/29 was never filed as mentioned. In view of such the original claims as filed are rejected in this CPA.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 305-3580.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Calvert, can be reached on (703) 305-1025.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

Patel/tp
September 26, 2000



GLORIA M. HALL
PRIMARY EXAMINER